

**HB**

**88**

*adopted*

AMENDMENT # 1

*McGuire moved*

OFFERED IN THE HOUSE  
TO: CSHB 88(FIN)

BY REPRESENTATIVE [REDACTED]

1 Page 1, line 1, following "minors;":

2 Insert "relating to the definition of 'recreation or youth center' for purposes of  
3 misconduct involving a controlled substance;"

4  
5 Page 1, line 9:

6 Delete "Sections 1, 2, and 4"

7 Insert "Sections 1, 3, and 5"

8  
9 Page 1, following line 10:

10 Insert a new bill section to read:

11 "\*\* Sec. 2. AS 11.71.900(20) is amended to read:

12 (20) "recreation or youth center" means a building, structure, athletic  
13 playing field, or playground

14 (A) run or created by a municipality or the state to provide  
15 athletic, recreational, or leisure activities for minors; or

16 (B) operated by a public or private *organization licensed*  
17 agency to provide  
18 shelter, training, or guidance for minors."

19 Renumber the following bill sections accordingly.

20  
21 Page 3, line 12:

22 Delete "Sections 2 - 4"

23 Insert "Sections 2 - 5"

McGuire  
W/mc  
ms  
3+4+fn

**CS FOR HOUSE BILL NO. 88(FIN) .**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-FOURTH LEGISLATURE - FIRST SESSION**

**BY THE HOUSE FINANCE COMMITTEE**

Offered: 3/22/05  
Referred: Rules

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to certain weapons offenses involving minors; to aggravating factors in  
2 sentencing for certain offenses committed on school grounds, on a school bus, at a  
3 school-sponsored event, or in administrative offices of a school district; to mitigating  
4 factors in sentencing for a defendant's assistance to authorities to detect, apprehend, or  
5 prosecute other persons who committed an offense; and providing for an effective date."

6 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

7 \* Section 1. The uncodified law of the State of Alaska is amended by adding a new section  
8 to read:

9 SHORT TITLE. Sections 1, 2, and 4 of this Act may be known as the School  
10 Violence Prevention Act of 2005.

11 \* Sec. 2. AS 12.55.155(c) is amended by adding a new paragraph to read:  
12 (31) the offense is a violation of AS 11.41 or AS 11.46.400 and the  
13 defendant directed the conduct constituting the offense against a person while the

1 person was on school grounds, on a school bus, at a school-sponsored event, or in the  
2 administrative offices of a school district; in this paragraph,

3 (A) "school bus" has the meaning given in AS 11.71.900;

4 (B) "school district" has the meaning given in AS 47.07.063;

5 (C) "school grounds" has the meaning given in AS 11.71.900.

6 \* Sec. 3. AS 12.55.155(d)(12) is amended to read:

7 (12) after commission of the offense for which the defendant is  
8 being sentenced, the defendant assisted authorities to detect, apprehend, or prosecute  
9 other persons who committed an offense;

10 \* Sec. 4. AS 47.12.030(a) is amended to read:

11 (a) When a minor who was at least 16 years of age at the time of the offense is  
12 charged by complaint, information, or indictment with an offense specified in this  
13 subsection, this chapter and the Alaska Delinquency Rules do not apply to the offense  
14 for which the minor is charged or to any additional offenses joinable to it under the  
15 applicable rules of court governing criminal procedure. The minor shall be charged,  
16 held, released on bail, prosecuted, sentenced, and incarcerated in the same manner as  
17 an adult. If the minor is convicted of an offense other than an offense specified in this  
18 subsection, the minor may attempt to prove, by a preponderance of the evidence, that  
19 the minor is amenable to treatment under this chapter. If the court finds that the minor  
20 is amenable to treatment under this chapter, the minor shall be treated as though the  
21 charges had been heard under this chapter, and the court shall order disposition of the  
22 charges of which the minor is convicted under AS 47.12.120(b). The provisions of  
23 this subsection apply when the minor is charged by complaint, information, or  
24 indictment with an offense

25 (1) that is an unclassified felony or a class A felony and the felony is a  
26 crime against a person;

27 (2) of arson in the first degree; [OR]

28 (3) that is a class B felony and the felony is a crime against a person in  
29 which the minor is alleged to have used a deadly weapon in the commission of the  
30 offense and the minor was previously adjudicated as a delinquent or convicted as an  
31 adult, in this or another jurisdiction, as a result of an offense that involved use of a

*am #2*  
*Barkowitz*  
*Harris*  
*objected*  
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1 deadly weapon in the commission of a crime against a person or an offense in another  
2 jurisdiction having elements substantially identical to those of a crime against a  
3 person, and the previous offense was punishable as a felony; in this paragraph, "deadly  
4 weapon" has the meaning given in AS 11.81.900(b); or

5 (4) that is misconduct involving weapons in the first degree under

6 (A) AS 11.61.190(a)(1); or

7 (B) AS 11.61.190(a)(2) when the firearm was discharged  
8 under circumstances manifesting substantial and unjustifiable risk of  
9 physical injury to a person.

10 \* Sec. 5. The uncodified law of the State of Alaska is amended by adding a new section to  
11 read

12 APPLICABILITY. Sections 2 - 4 of this Act apply to acts committed on or after the  
13 effective date of this Act.

14 \* Sec. 6. This Act takes effect July 1, 2005.

# FISCAL NOTE

**STATE OF ALASKA  
2005 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
 Bill Version: HB 88  
 ( H ) Publish Date: 1/19/05  
 Dept. Affected: Health & Social Services

Revision Date/Time (Note if correction):

Title WEAPONS OFFENSES INVOLVING MINORS  
AND OFFENSES AGAINST SCHOOL  
EMPLOYEES

RDU Juvenile Justice  
 Component Probation Services

Sponsor (RLS) BY REQUEST OF THE  
GOVERNOR

Requester GOVERNOR

Component No. 2134

**Expenditures/Revenues (Thousands of Dollars)**

Note: Amounts do not include inflation unless otherwise noted below

OPERATING EXPENDITURES	FY 2008	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES (0)</b>						
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**FUND SOURCE (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1037 GF/Mental Health						
Other(Specify Type-do not abbreviate)						
Other(Specify Type-do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2005) cost: \_\_\_\_\_

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

This proposed legislation will not have a significant impact on workloads of the Division of Juvenile Justice staff. Therefore, this zero fiscal note is entered to reflect negligible fiscal impact.

Prepared by: Pat. Ware  
 Division Juvenile Justice  
 Approved by: Joel S. Gilbertson, Commissioner  
 Agency Department of Health and Social Services

Phone 465-2112  
 Date/Time \_\_\_\_\_  
 Date 01/06/2005

# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: 2  
 Bill Version: HB 88  
 (H) Publish Date: 1/19/05

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: LAW  
 Title: "An Act relating to penalties for certain weapons offenses involving minors; to delinquent minors..." RDU: CRIMINAL  
 Component: CDCO  
 Sponsor: \_\_\_\_\_  
 Requester: Governor Component No.: \_\_\_\_\_

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2005) cost: 0.0  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

This bill seeks to address the issue of school violence by adopting an aggravating factor in sentencing a person convicted of felony assault directed at a school employee. The bill would deter minors 16 years and older from committing felony offenses involving misconduct with weapons in the first and second degrees by holding them accountable to the same legal consequences as adults. Passage of this legislation will not have a foreseeable fiscal impact on the Department of Law.

Prepared by: Kathryn Daughhete, Director Phone 465-5427  
 Division: Administrative Services Date/Time 1/18/05 3:14 PM  
 Approved by: Kathryn Daughhete for Gregg D. Renkes, Attorney General Date 1/18/2005  
 Agency: Department of Law

# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: 3  
 Bill Version: CSHB 88(FIN)  
 (H) Publish Date: 3/22/05

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Health | Social Ser.  
 Title: Relating to penalties for certain RDU: Juvenile Justice  
weapons offenses involving minors... Component: Probation Services  
 Sponsor: Governor  
 Requester: HFC Component No: 2134

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	*****	*****	*****	*****	*****	*****

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type-Do not abbreviate)						
<b>TOTAL</b>	*****	*****	*****	*****	*****	*****

Estimate of any current year (FY2005) cost: 00

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

The legislation may or may not result in increased costs to the department.

Prepared by: House Finance Committee Phone: 465-4945  
 Division: \_\_\_\_\_ Date/Time: 3/21/05 3:48 PM  
 Approved by: Rep. Meyer, Co-Chair House Finance Committee Date: 3/21/2005  
 Agency: Rep. Cavanaugh, Co-Chair House Finance Committee

# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: 4  
 Bill Version: CSHB 88(FIN)  
 (H) Publish Date: 3/22/05

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: LAW  
 Title: Relating to penalties for certain RDU: CRIMINAL  
weapons offenses involving minors... Component: CDCO  
 Sponsor: Governor  
 Requester: HFC Component No. \_\_\_\_\_

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	*****	*****	*****	*****	*****	*****

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type-Do not abbreviate)						
<b>TOTAL</b>	*****	*****	*****	*****	*****	*****

Estimate of any current year (FY2005) cost: 00  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

The legislation may or may not result in increased costs to the department.

Prepared by: House Finance Committee Phone 465-4945  
 Division: \_\_\_\_\_ Date/Time 3/21/05 3:49 PM  
 Approved by: Rep. Meyer, Co-Chair House Finance Committee Date 3/21/2005  
 Agency: Rep. Chenault, Co-Chair House Finance Committee

**Sectional Analysis of CSHB 88(FIN) (School Violence Prevention Act of 2005;  
Mitigating Factors in Sentencing for a Defendant's Assistance to Authorities to  
Detect, Apprehend, or Prosecute Other Offenders)**

*(Prepared by the Department of Law, March 23, 2005)*

CSHB 88(FIN) would address certain weapons violations by children, assault and other crimes by adults in schools and mitigating factors in sentencing for a defendant's assistance to authorities to detect, apprehend, or prosecute other offenders.

**Sec. 1: *Short title:*** This section establishes a short title for secs. 1, 2, and 4 of CSHB 88(FIN).

**Sec. 2: *Certain offenses as aggravating factors for sentencing:*** This section would amend AS 12.55.155(c), the list of aggravating factors to be considered at sentencing, to add to aggravating factors an offense that is a violation of AS 11.41 (Offenses Against the Person) or AS 11.46.400 (Arson in the First Degree). These offenses are class A felony crimes. The aggravator would apply if the defendant "directed the conduct constituting the offense against a person" while the person was on school grounds, on a school bus, at a school-sponsored event, or in the administrative offices of a school district. The amendment also includes definitions of school bus, school district, and school grounds.

**Sec. 3: *Mitigating factors in sentencing for a defendant's assistance to authorities to detect, apprehend, or prosecute other offenders:*** This section would amend AS 12.55.155(d)(12), within the list of mitigating factors to be considered at sentencing, to clarify that if a defendant assists authorities to detect, apprehend, or prosecute other persons who committed an offense, the assistance does not count as a mitigating factor unless provided after commission of the offense for which the defendant is being sentenced.

Superior  
Court  
dec  
felony  
Ketchikan

**Sec. 4: *Waiver of 16- and 17-year old minors into adult court for certain weapons offenses:*** This section would amend AS 47.12.030(a), to add certain offenses under AS 11.61.190 (Misconduct Involving Weapons in the First Degree) to the list of offenses for which 16- and 17-year old minors are automatically waived into adult court.

**Sec. 5: *Applicability:*** This section would make secs. 2 - 4 of the Act applicable to offenses committed on or after the effective date of the Act.

**Sec. 6: *Effective date:*** This section would establish an effective date of July 1, 2005.

-----Original Message-----

**From:** Bloodgood, Matthew  
**Sent:** Thursday, February 03, 2005 4:33 PM  
**To:** Holloway, Audie  
**Subject:** MICS law and schools

Chief,

The reminder e-mail about our conversation regarding cleaning up the language related to possession of drugs around a school. Moberly said the word "run" in the language is too ambiguous and makes it difficult to prosecute cases in or around schools. Perhaps we can add language to the statute related to any school sponsored training, such as found a Covenant House.

Additionally, the language related to "youth centers" requires the primary purpose of the center is "recreational." This means the teen medical clinic, Covenant House, Covenant House Youth Resource Center do not qualify. If this could be cleaned up to include language that any center specifically geared for youth would count, that would be great.

Matt

-----Original Message-----

**From:** Holloway, Audie  
**Sent:** Friday, February 04, 2005 7:50 AM  
**To:** 'Mike\_Hawker@legis.state.ak.us'  
**Subject:** FW: MICS law and schools

Mike,

APD continues to have a major drug problem around the Bus Accommodation Center Downtown. It centers mostly around younger drug users. Of course, it is also in close proximity to the Covenant House. The ASD also has an alternative school just across the street, which is the thrust of this maneuver. Dealing drugs in proximity to a school carries a stiffer sentence. The problem is that the statute is poorly written and really has only the common idea of a school in mind, a public facility in a neighborhood. The reality is that there are many kinds of schools, such as private schools and religious schools, and satellite options that do not fit into the standard idea of the "school".

Would this be something that you might be able to take a look at?

Thanks, Audie

STATE OF ALASKA

FRANK H. MURKOWSKI  
GOVERNOR

DEPARTMENT OF LAW  
CRIMINAL DIVISION

District Attorney's Office  
310 K Street, Suite 520  
Anchorage, Alaska 99501

Telephone: (907) 269-6300  
Fax: (907) 269-6321

February 18, 2005

Representative Mike Chenault  
Co-Chair, House Finance Committee  
Alaska Legislature  
State Capitol, Room 507  
Juneau, AK 99801

Representative Kevin Meyer  
Co-Chair, House Finance Committee  
Alaska Legislature  
State Capitol, Room 515  
Juneau, AK 99801

Re: H.B. 88 – automatic waiver of juveniles for weapons offenses

Dear Committee Chair:

During the House Judiciary Committee's consideration of the bill automatically waiving juveniles ages 16 and 17 to adult court for misconduct involving weapons in the first and second degrees, some members of the Judiciary Committee asked whether prosecutors have had difficulty utilizing discretionary waiver in juvenile cases. I have gathered information regarding our experience with discretionary waiver and I am writing to respond to those questions.

Since 2001, the prosecutors in juvenile cases in the Anchorage office of the Attorney General or the District Attorney have tried to use the discretionary waiver provisions of juvenile law in four cases. We were unsuccessful in three of the four. Two of the three unsuccessful applications were in murder cases; one was in an attempted murder case.

The four details of the four cases are as follows.

R.B. was a fourteen-year-old Anchorage resident who participated in the murder of Rachael Peace. While his eighteen-year-old accomplice strangled her to death, R.B. held his hand over Rachael Peace's mouth and nose. R.B. did not know Rachael Peace prior to night of her murder. R.B. and his accomplice later attempted to destroy the evidence of the crime by burning Rachael Peace's body at Crow Creek Pass near Girdwood, Alaska. The Division of Juvenile Justice in consultation with the Department of Law filed a petition to waive juvenile jurisdiction. Superior Court Judge Dan Hensley declined to waive juvenile jurisdiction.

February 18, 2005

Page 2 of 2

J.W. was a fifteen-year-old from Kenai, Alaska, who got engaged in a verbal argument with the driver of a truck and, as the truck drove away, pulled a .357 out of his back pack and fired three shots at the driver. The shots struck the back of the cab of the truck. One bullet lodged behind the driver's seat, but did not penetrate any further. Two other bullets passed through the rear window of the truck. One of those bullets lodged in the passenger doorframe, almost striking the passenger. No one was hurt during the incident. A petition to waive juvenile jurisdiction was filed in Kenai. Superior Court Judge Hal Brown declined to waive juvenile jurisdiction.

P.T. was a fifteen-year-old Anchorage teenager who participated in the robbery and murder of Anchorage businesswoman, Chong Cho. Three robbers, two adults and P.T., robbed Ms. Cho of the day's receipts from her restaurant as she returned home from work. One of the robbers shot her in the head, killing her. Police did not have evidence identifying which of the three robbers did the shooting. A petition to waive juvenile jurisdiction was filed by the Division of Juvenile Justice and the Department of Law. Superior Court Judge John Reese declined to waive juvenile jurisdiction.

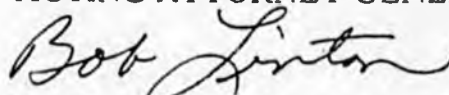
B.K. was a fifteen-year-old in Pilot Point, who shot his cousin in the head with a .22 rifle and sexually assaulted her as she lay dying. A petition to waive juvenile jurisdiction was filed. Superior Court Judge Fred Torissi waived juvenile jurisdiction.

Since judges would not waive juvenile jurisdiction in three out of four murder or attempted murder cases, we do not believe we would be successful in seeking discretionary waiver in a case of a drive-by shooting in which no one has actually been injured. If you would like any additional information regarding these cases, please let me know.

Sincerely,

SCOTT J. NORDSTRAND  
ACTING ATTORNEY GENERAL

By:



Leonard M. Linton, Jr.  
District Attorney



# *Alaska Youth Risk Behavior Survey 2003*



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**2003 Youth Risk Behavior Survey (YRBS)**



**A Joint Project Between  
Alaska Department of Health and Social Services,  
Division of Public Health, Section of Epidemiology  
P.O. Box 240249  
Anchorage, AK 99524-0249  
(907) 269-8000**

**and**

**Alaska Department of Education & Early Development,  
Division of Teaching and Learning Support  
801 West 10<sup>th</sup> Street, Suite 200  
Juneau, AK 99801  
(907) 465-2887**

**Authors**

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Scott Saxon, BS  
Charles J. Utermohle, Ph. D**

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**Alaska Department of Health & Social Services**

Joel Gilbertson, Commissioner

Division of Public Health  
Doug Bruce, Director

**Alaska Department of Education & Early Development**

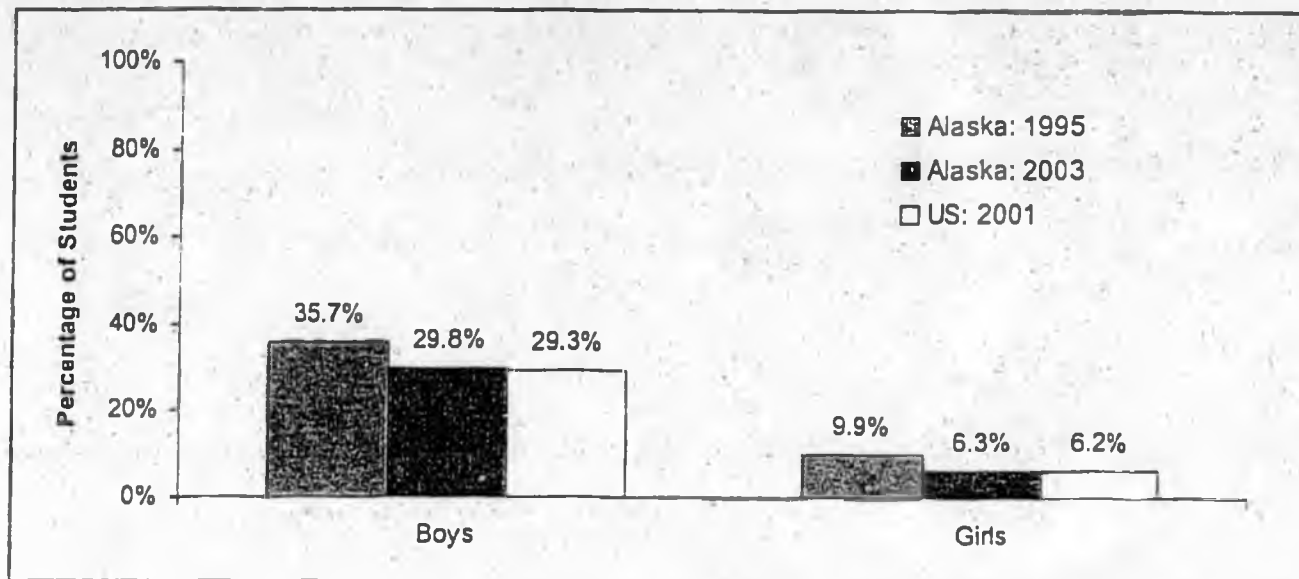
Roger Sampson, Commissioner  
Karen Rehfeld, Deputy Commissioner

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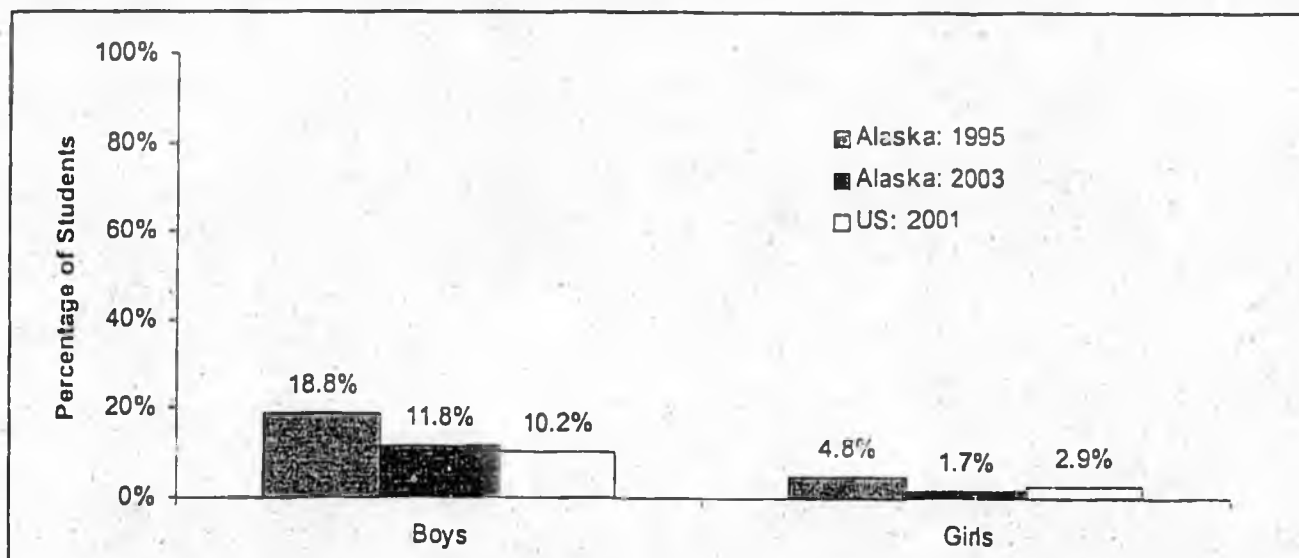
### Carried a Weapon

About 6.3% of girls report carrying a weapon compared to 29.8% of boys. Both Alaska boys and girls report similar weapon carrying behavior as U.S. boys and girls. Significant decreases have occurred in weapon carrying behavior for combined sexes since 1995.



### Carried a Weapon on School Property

Among Alaska high school students, 11.8% of boys and 1.7% of girls report having carried a weapon, such as a gun, knife or club, on school property in the previous 30 days. Both boys and girls show a significant decrease in weapon carrying on school property from 1995. In 2003 Alaska boys were somewhat (11.8%) more likely to report carrying a weapon on school property than were 2001 U.S. boys (10.2%).

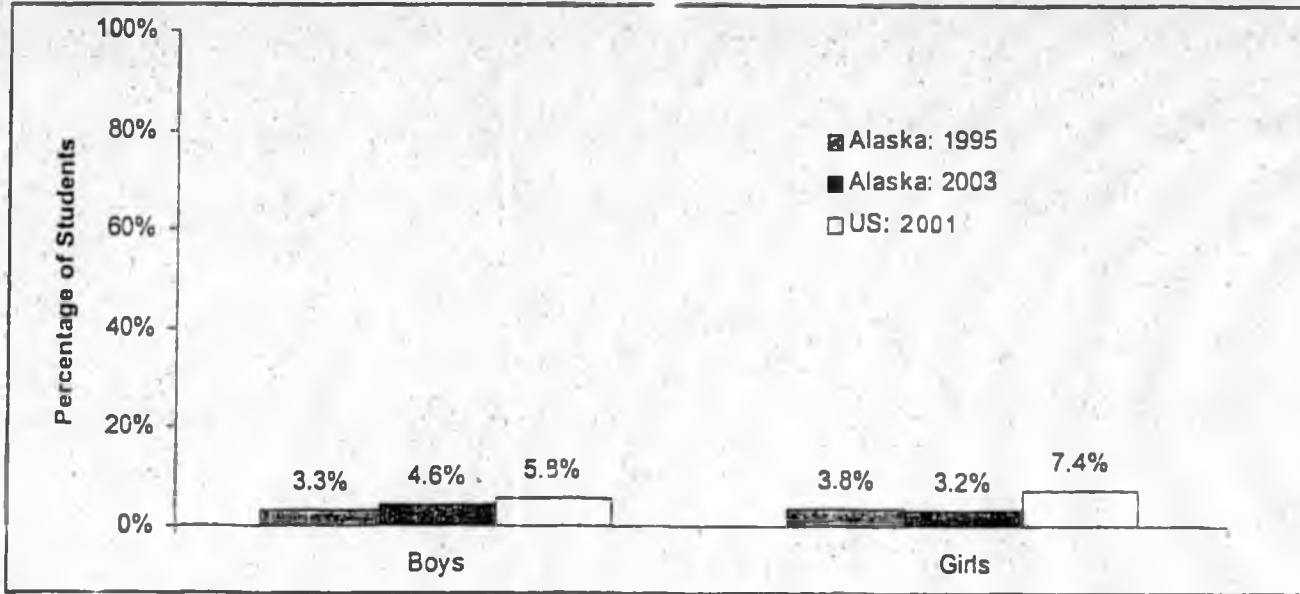


**Healthy Alaskans 2010 Objective:**

- ▶ Reduce to 3% weapon carrying by high school students on school property (percentage of students who carried a weapon on school property in the past 30 days)

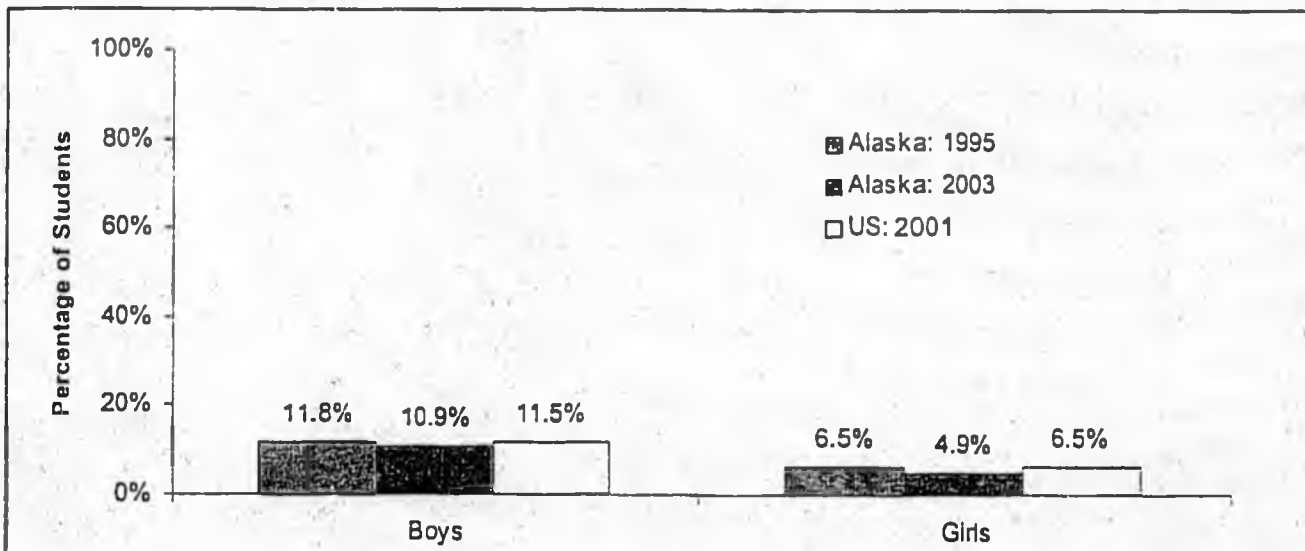
### Did Not Go to School on One or More Days in Past 30 Days Because They Felt Unsafe


Among Alaska high school students fewer than 5% of either boys or girls did not go to school because they felt unsafe. Boys show a slight increase (1.3%) from 1995, as where among girls there appears to be no difference.



### Threatened or Injured by a Weapon on School Property

Among Alaska high school students, 10.9% of boys and 4.9% of girls report having been threatened or injured with a weapon such as a gun, knife or club on school property within the past 12 months. There has been little or no change in this behavior since 1995. A smaller percentage of both Alaska boys and girls report having been threatened or injured with a weapon on school property than U.S. boys and girls report.





## **Division of Juvenile Justice Agency Mission (AS 47.12.010)**

- Hold juvenile offenders accountable
- Promote safety and restoration of victims and communities
- Assist offenders and their families in developing skills to prevent crime



## **Juvenile System**

- Delinquency Statutes/Regs: AS 47.12; AS 47.14; 7AAC 52; 7 AAC 54;
- Jurisdiction: Minors under age 18
- Waiver into Adult Court (47.12.030(a)):
  1. Age 16-17
  2. Unclassified/Class A felonies against person
  3. Class B felonies against person with deadly weapon- prior adjudication of similar crime required

## Options in the Juvenile System Judgments and Orders (AS 47.12.120)

- ❖ **Minor found delinquent by judge**
  - DHSS Custody- locked institution
  - "Supervisory custody"/ released to parent
  - DHSS Custody/ placed in non-detention setting (foster care, residential care)
  - Restitution order only

## DJJ Data (FY '04)

### FY2004 Delinquency Referral Summaries

Charge Type	Number of Reports	Percent of Total
Against Persons	1,159	19%
Property	3,026	49%
Public Order	333	5%
Drug/Alcohol	679	11%
Weapon	67	1%
Miscellaneous offenses	925	15%
<b>Total</b>	<b>6,189</b>	<b>100%</b>



## **DJJ Core Services Detention and Long-Term Treatment**

- Eight DJJ secure facilities- 288 beds
- Short-term (30 days) detention pending court hearing
- Long-term institutionalization for serious offenders
- Transition/ Step-Down services (Re-Entry)
- Performance-Based Standards (PbS)



## **Selected DJJ Performance Measures**

### **Re-offense Data**

- Closed probation cases: Average 22% tracked for two years; adult offenses not included
- Release from Facility: Average 37% (one year), increases to 58% for two years; adult offenses included

TABLE. (Continued) Percentage of high school students who reported violence-related behaviors, by sex, race/ethnicity, and grade — Youth Risk Behavior Survey, United States, 1991–2003\*

Behavior	1991	1993	1995	1997	1999	2001	2003
	% (95% CI) <sup>†</sup>	% (95% CI)	% (95% CI)	% (95% CI)	% (95% CI)	% (95% CI)	% (95% CI)
<b>In a physical fight on school property<sup>‡</sup></b>							
Overall	—	16.2 (±1.2)	15.5 (±1.6)	14.8 (±1.3)	14.2 (±1.2)	12.5 (±1.0)	12.8 (±1.5) <sup>§</sup>
Sex							
Female	—	8.6 (±1.4)	9.5 (±1.9)	8.6 (±1.5)	9.8 (±1.9)	7.2 (±0.9)	8.0 (±1.4) <sup>§</sup>
Male	—	23.5 (±1.4)	21.0 (±1.9)	20.0 (±2.0)	18.5 (±1.3)	18.0 (±1.5)	17.1 (±1.8) <sup>§</sup>
Race/Ethnicity							
White, non-Hispanic	—	15.0 (±1.3)	12.9 (±1.2)	13.3 (±1.7)	12.3 (±1.7)	11.2 (±1.2)	10.0 (±1.4) <sup>§</sup>
Black, non-Hispanic	—	22.0 (±2.7)	20.3 (±2.2)	20.7 (±2.4)	18.7 (±3.0)	16.8 (±2.5)	17.1 (±2.5) <sup>§</sup>
Hispanic	—	17.9 (±3.1)	21.1 (±3.3)	19.0 (±2.9)	15.7 (±1.8)	14.1 (±1.7)	16.7 (±2.2) <sup>§</sup>
Grade							
9th	—	23.1 (±3.0)	21.6 (±3.5)	21.3 (±2.5)	18.6 (±2.0)	17.3 (±1.5)	18.0 (±2.4) <sup>§</sup>
10th	—	17.2 (±2.1)	16.5 (±3.0)	17.0 (±3.3)	17.2 (±2.4)	13.5 (±1.7)	12.8 (±1.8) <sup>§</sup>
11th	—	13.8 (±2.5)	13.6 (±2.0)	12.5 (±1.7)	10.8 (±2.0)	9.4 (±1.4)	10.4 (±1.8) <sup>§</sup>
12th	—	11.4 (±1.3)	10.6 (±1.3)	9.5 (±1.4)	8.1 (±2.0)	7.5 (±1.1)	7.3 (±1.4) <sup>§</sup>
<b>Threatened or injured with a weapon (e.g., a gun, knife, or club) on school property<sup>‡</sup></b>							
Overall	—	7.3 (±0.9)	8.4 (±1.1)	7.4 (±0.9)	7.7 (±0.8)	8.9 (±1.1)	9.2 (±1.5)
Sex							
Female	—	5.4 (±0.8)	5.8 (±1.4)	4.0 (±0.6)	5.8 (±1.3)	6.5 (±1.0)	6.5 (±1.2)
Male	—	9.2 (±1.3)	10.9 (±1.2)	10.2 (±1.4)	9.5 (±1.6)	11.5 (±1.3)	11.6 (±1.9)
Race/Ethnicity							
White, non-Hispanic	—	6.3 (±1.1)	7.0 (±1.0)	6.2 (±1.1)	6.6 (±0.7)	8.5 (±1.3)	7.8 (±1.5) <sup>§</sup>
Black, non-Hispanic	—	11.2 (±1.8)	11.0 (±3.3)	9.9 (±1.8)	7.6 (±1.7)	9.3 (±1.4)	10.9 (±1.6) <sup>**</sup>
Hispanic	—	8.6 (±1.5)	12.4 (±3.2)	9.0 (±1.2)	9.8 (±2.1)	8.9 (±2.1)	9.4 (±2.4)
Grade							
9th	—	9.4 (±1.8)	9.6 (±2.0)	10.1 (±2.0)	10.5 (±1.9)	12.7 (±1.7)	12.1 (±2.5) <sup>§</sup>
10th	—	7.3 (±1.2)	9.6 (±2.1)	7.9 (±2.2)	8.2 (±1.8)	9.1 (±1.5)	9.2 (±2.0)
11th	—	7.3 (±1.3)	7.7 (±1.3)	5.9 (±1.4)	6.1 (±0.9)	6.9 (±1.3)	7.3 (±1.4) <sup>**</sup>
12th	—	5.5 (±1.2)	6.7 (±1.1)	5.8 (±1.6)	5.1 (±1.6)	5.3 (±1.0)	6.3 (±1.8)
<b>Did not go to school because of safety concerns<sup>§</sup></b>							
Overall	—	4.4 (±0.7)	4.5 (±0.7)	4.0 (±0.6)	5.2 (±1.3)	6.6 (±1.0)	5.4 (±0.8) <sup>§</sup>
Sex							
Female	—	4.4 (±0.9)	4.3 (±1.1)	3.9 (±0.7)	5.7 (±1.5)	7.4 (±1.3)	5.3 (±1.0) <sup>§</sup>
Male	—	4.3 (±0.8)	4.7 (±1.1)	4.1 (±0.8)	4.8 (±1.6)	5.8 (±1.1)	5.5 (±1.0)
Race/Ethnicity							
White, non-Hispanic	—	3.0 (±0.7)	2.8 (±0.8)	2.4 (±0.6)	3.9 (±1.3)	5.0 (±1.2)	3.1 (±0.6) <sup>§</sup>
Black, non-Hispanic	—	7.1 (±1.4)	7.7 (±1.8)	6.8 (±1.5)	6.0 (±1.2)	9.8 (±1.5)	8.4 (±1.2)
Hispanic	—	10.1 (±1.7)	8.5 (±2.7)	7.2 (±1.7)	11.2 (±3.3)	10.2 (±1.3)	9.4 (±1.5)
Grade							
9th	—	6.1 (±0.8)	5.6 (±1.6)	5.5 (±1.0)	7.0 (±1.8)	8.8 (±1.7)	6.9 (±1.2)
10th	—	5.2 (±1.4)	5.0 (±1.2)	4.0 (±1.0)	4.8 (±1.4)	6.3 (±1.3)	5.2 (±1.1)
11th	—	3.3 (±1.0)	4.1 (±1.0)	4.2 (±1.7)	4.5 (±1.8)	5.9 (±1.2)	4.5 (±1.0) <sup>§</sup>
12th	—	3.0 (±1.0)	3.3 (±1.0)	2.6 (±0.8)	3.9 (±1.5)	4.4 (±0.7)	3.8 (±1.1)

\* Linear and quadratic trend analyses were conducted by using a logistic regression model controlling for sex, race/ethnicity, and grade. Prevalence estimates shown here were not standardized by demographic variables.

† Confidence interval.

§ On ≥1 of the 30 days preceding the survey.

‡ Significant (p<0.05) linear effect.

\*\* Significant quadratic effect.

†† One or more times during the 12 months preceding the survey.

§§ Injuries had to be treated by a doctor or nurse.

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Table 38  
 Anchorage School District  
 Student Report Card Survey  
 Number = 19,186

Question	Strongly				Strongly Disagree
	Agree	Agree	Neutral	Disagree	
Our school is clean and well maintained.	20%	44%	18%	12%	6%
I am treated fairly by adults here at school.	25%	38%	20%	11%	6%
I am treated fairly by other students.	16%	40%	24%	12%	8%
I find my school work interesting.	18%	32%	27%	13%	10%
I understand the school work I am given.	22%	44%	23%	7%	4%
Our school rules are fair.	23%	30%	22%	14%	11%
My teachers treat me with respect.	36%	37%	16%	6%	5%
Students here treat me with respect.	15%	39%	26%	12%	8%
Our school rules are fairly enforced.	22%	32%	26%	11%	9%
I like school.	24%	27%	24%	11%	15%
I am safe at school.	34%	34%	20%		
If I have a problem at school, I know where I can go for help.	32%	38%	18%	7%	6%
Have chances to participate in school activities.	34%	42%	15%	5%	4%
I use computers at school.	37%	39%	12%	7%	7%
The library/media center has the materials I need to do my school work.	25%	37%	25%	8%	6%
I feel welcome at school.	29%	35%	22%	7%	7%
I feel safe on the bus and at the bus stop.	17%	24%	40%	7%	11%

(2) no person suffered physical injury as a result of the presence of the substance on the highway.

(c) Obstruction of highways is a class B misdemeanor. (§ 7 ch 166 SLA 1978)

**Collateral references.** — 39 Am. Jur. 2d, Highways, Streets and Bridges, §§ 175, 189, 190, 194, 253, 257, 279, 283-294, 297-303, 305-307. 40 C.J.S., Highways, §§ 221-231.

**Sec. 11.61.160. Recruiting a gang member in the first degree.** (a) A person commits the crime of recruiting a gang member in the first degree if the person uses or threatens the use of force against a person or property to induce a person to participate in a criminal street gang or to commit a crime on behalf of a criminal street gang.

(b) Recruiting a gang member in the first degree is a class C felony. (§ 2 ch 60 SLA 1996)

**Sec. 11.61.165. Recruiting a gang member in the second degree.** (a) A person commits the crime of recruiting a gang member in the second degree if the person is 18 years of age or older and, without force or the threat of force, encourages or recruits a person who is under 18 years of age and at least three years younger than the offender to participate in a criminal street gang.

(b) Recruiting a gang member in the second degree is a class A misdemeanor. (§ 2 ch 60 SLA 1996)

## Article 2. Weapons and Explosives.

### Section

190. Misconduct involving weapons in the first degree

195. Misconduct involving weapons in the second degree

200. Misconduct involving weapons in the third degree

### Section

210. Misconduct involving weapons in the fourth degree

220. Misconduct involving weapons in the fifth degree

240. Criminal possession of explosives

250. Unlawful furnishing of explosives

**Collateral references.** — 31A Am. Jur. 2d, Explosions and Explosives, §§ 214, 216, 219-223, 225-228, 232, 233, 235, 237, 238, 245-250; 79 Am. Jur. 2d, Weapons and Firearms, §§ 1-34.

35 C.J.S., Explosives, § 1 et seq; 94 C.J.S., Weapons, §§ 9-51.

Validity and construction of gun control laws, 28 ALR3d 845; 86 ALR4th 931; 37 ALR Fed. 696; 60 ALR Fed. 305; 125 ALR Fed. 613.

Validity of state statutes restricting right of aliens to bear arms, 28 ALR4th 1096.

Sufficiency of evidence of possession in prosecution under statute prohibiting persons under indictment for or convicted of crime from acquiring, having, carrying or using firearms or weapons, 43 ALR4th 788.

Validity of state statute proscribing possession or carrying of knife, 47 ALR4th 651.

**Sec. 11.61.190. Misconduct involving weapons in the first degree.** (a) A person commits the crime of misconduct involving weapons in the first degree if the person

(1) uses or attempts to use a firearm during the commission of an offense under AS 11.71.010 — 11.71.040; or

(2) discharges a firearm from a propelled vehicle while the vehicle is being operated and under circumstances manifesting substantial and unjustifiable risk of physical injury to a person or damage to property.

(b) Misconduct involving weapons in the first degree is a class A felony. (§ 10 ch 79 SLA 1992; am § 3 ch 60 SLA 1996)

NOTES TO DECISIONS

**Offense required proof of both specified conduct and a specified result.** — The State was required to prove two different culpable mental states; offense required proof of a particular type of conduct: knowing discharge of a firearm from an operated vehicle, proof was also required that defendant's conduct created a specified result: the risk of physical injury to a person or damage to property. *Smith v. State*, 28 P3d 323 (Alaska Ct. App. 2001).

**Sentence.** — A five-year presumptive term applied to first felony offenders convicted of first-degree weapons misconduct as the legislature could not have intended to impose a seven-year presumptive term when a drive-by shooting endangered a person but a lesser five-year presumptive term if the shooting resulted in death. *Smith v. State*, 28 P.3d 323 (Alaska Ct. App. 2001).

**Collateral references.** — What constitutes "constructive possession" of unregistered or otherwise prohibited weapon under state law. 88 ALR5th 121.

**Sec. 11.61.195. Misconduct involving weapons in the second degree.** (a) A person commits the crime of misconduct involving weapons in the second degree if the person knowingly

(1) possesses a firearm during the commission of an offense under AS 11.71.010 — 11.71.040;

(2) violates AS 11.61.200(a)(1) and is within the grounds of or on a parking lot immediately adjacent to

(A) a public or private preschool, elementary, junior high, or secondary school without the permission of the chief administrative officer of the school or district or the designee of the chief administrative officer; or

(B) a center, other than a private residence, licensed under AS 47.33 or AS 47.35 or recognized by the federal government for the care of children; or

(3) discharges a firearm at or in the direction of

(A) a building with reckless disregard for a risk of physical injury to a person; or

(B) a dwelling.

(b) Misconduct involving weapons in the second degree is a class B felony. (§ 10 ch 79 SLA 1992; am § 1 ch 124 SLA 1994; am § 2 ch 130 SLA 1994; am § 1 ch 89 SLA 1997; am § 3 ch 58 SLA 1999; am § 3 ch 99 SLA 2004)

**Effect of amendments.** — The 1999 amendment, effective July 1, 2000, inserted a section reference in subparagraph (a)(2)(B).

The 2004 amendment, effective June 26, 2004, deleted "AS 14.37" following "licensed under" in paragraph (a)(2)(B), and made related changes.

NOTES TO DECISIONS

**Nexus between firearm possession and drug offense.** — Paragraph (a)(1) requires proof of a nexus between a defendant's possession of the firearm and the defendant's commission of the felony drug offense. *Collins v. State*, 977 P.2d 741 (Alaska Ct. App. 1999).

Convictions for possession of a firearm during the commission of a felony drug offense requires proof of a nexus between a defendant's possession of a firearm and the defendant's commission of the felony drug offense; therefore, where the state never presented evidence of this element of the offense to the grand jury and the trial jury never was asked to evaluate this evidence at trial, there was no basis to sustain the convictions. *Lewis v. State*, 9 P.3d 1028 (Alaska Ct. App. 2000).

Paragraph (a)(1) requires proof of a nexus between a defendant's possession of the firearm and the defendant's commission of the felony drug offense, and the court's findings must demonstrate that the state proved the nexus. *Murray v. State*, 12 P.3d 784 (Alaska Ct. App. 2000).

Where the trial court's instruction did not allow the jury to consider the nexus element of the felony drug offense and possession or exercise of control over a firearm, the error was not harmless beyond a reasonable doubt; a jury reasonably could have found no connection between defendant's possession of marijuana and his possession of the firearms, and accordingly, the appellate court reversed defendant's conviction of second-degree misconduct involving a weapon. *Maness v. State*, 49 P.3d 1128 (Alaska Ct. App. 2002).

Because AS 11.61.195(a)(1) requires proof of a nexus between defendant's possession of the firearm and his commission of the felony drug offense, and the fact that the firearm and drugs were located in the same house was insufficient to establish it, the appellate court remanded for reconsideration of the nexus issue. *Murray v. State*, 54 P.3d 821 (Alaska Ct. App. 2002).

**Collateral references** "constructive possession" of prohibited weapon under

**Sec. 11.61.200.** M. son commits the crim

(1) knowingly poss: having been convicted would constitute a fe United States, or a c

(2) knowingly sells a person who has bee States, or a court of

(3) manufactures, i

(4) knowingly sell: condition is substanti: or controlled substanc

(5) removes, covers with intent to render

(6) possesses a fire covered, altered, or covered, altered, or de

(7) violates AS 11.4: when the person's phy: of an intoxicating liqu

(8) violates AS 11.46 or in a propelled vehic 18.66.100 — 18.66.180

the violation, possesses an ordinary pocketknif

(9) communicates in communication, posses than an ordinary pock

(10) resides in a dwe one's person or a prohib felony by a court of this territory, unless the per is a concealable weapon tion or from the head dwelling is located;

(11) discharges a fire in circumstances other

(12) knowingly posse convicted of a felony or a felony if committed by a court of another state

(b) It is an affirmativ

(1) under (a)(1) of thi

(A) the person convic pardon for that convicti

(B) the underlying co: AS 12.55.085 or as a re:

(C) a period of 10 y unconditional discharge

rehabilitating juveniles to make them productive citizens, and imposing state tort liability for harm caused by released juveniles would have distorted this balance; likewise the policy of preventing future harm was not obviously going to be served by imposing a

duty, given that AS 47.12.010(b) limited commitment and re-commitment periods of time, and there was no clear correlation between the length of commitment and the rate of recidivism. *State v. Sandsness*, 72 P.3d 299 (Alaska 2003).

**Sec. 47.12.020. Jurisdiction.** Proceedings relating to a minor under 18 years of age residing or found in the state are governed by this chapter, except as otherwise provided in this chapter, when the minor is alleged to be or may be determined by a court to be a delinquent minor as a result of violating a criminal law of the state or a municipality of the state. (§ 46 ch 59 SLA 1996)

#### NOTES TO DECISIONS

Quoted in *Nao v. State*, 953 P.2d 522 (Alaska Ct. App. 1998).

**Collateral references.** — Homicide by juvenile as within jurisdiction of juvenile court, 48 ALR2d 662.

Age of child at time of alleged offense or delinquency, or at time legal proceedings are commenced, as criterion of jurisdiction of juvenile court, 89 ALR2d 506.

Truancy as indicative of delinquency or incorrigibility, justifying commitment of infant or juvenile. 5 ALR4th 1211, § 7.

**Sec. 47.12.030. Provisions inapplicable.** (a) When a minor who was at least 16 years of age at the time of the offense is charged by complaint, information, or indictment with an offense specified in this subsection, this chapter and the Alaska Delinquency Rules do not apply to the offense for which the minor is charged or to any additional offenses joinable to it under the applicable rules of court governing criminal procedure. The minor shall be charged, held, released on bail, prosecuted, sentenced, and incarcerated in the same manner as an adult. If the minor is convicted of an offense other than an offense specified in this subsection, the minor may attempt to prove, by a preponderance of the evidence, that the minor is amenable to treatment under this chapter. If the court finds that the minor is amenable to treatment under this chapter, the minor shall be treated as though the charges had been heard under this chapter, and the court shall order disposition of the charges of which the minor is convicted under AS 47.12.120(b). The provisions of this subsection apply when the minor is charged by complaint, information, or indictment with an offense

(1) that is an unclassified felony or a class A felony and the felony is a crime against a person;

(2) of arson in the first degree; or

(3) that is a class B felony and the felony is a crime against a person in which the minor is alleged to have used a deadly weapon in the commission of the offense and the minor was previously adjudicated as a delinquent or convicted as an adult, in this or another jurisdiction, as a result of an offense that involved use of a deadly weapon in the commission of a crime against a person or an offense in another jurisdiction having elements substantially identical to those of a crime against a person, and the previous offense was punishable as a felony; in this paragraph, "deadly weapon" has the meaning given in AS 11.81.900(b).

(b) When a minor is accused of violating a statute specified in this subsection, other than a statute the violation of which is a felony, this chapter and the Alaska Delinquency Rules do not apply and the minor accused of the offense shall be charged, prosecuted, and sentenced in the district court in the same manner as an adult; if a minor is charged, prosecuted, and sentenced for an offense under this subsection, the minor's parent, guardian, or legal custodian shall be present at all proceedings; the provisions of this subsection apply when a minor is accused of violating

(1) a traffic statute or regulation, or a traffic ordinance or regulation of a municipality;  
 (2) AS 11.76.105, relating to the possession of tobacco by a person under 19 years of age;

(3) a fish and game statute or regulation under AS 16;

(4) a parks and recreational facilities statute or regulation under AS 41.21;

(5) AS 04.16.050, relating to possession, control, or consumption of alcohol, except for conduct constituting habitual minor consuming or in possession or control under AS 04.16.050(d); and

(6) a municipal curfew ordinance, whether adopted under AS 29.35.085 or otherwise, unless the municipality provides for enforcement of its ordinance under AS 29.25.070(b) by the municipality; in place of any fine imposed for the violation of a municipal curfew ordinance, the court shall allow a defendant the option of performing community work; the value of the community work, which may not be lower than the amount of the fine, shall be determined under AS 12.55.055(c); in this paragraph, "community work" includes the work described in AS 12.55.055(b) or work that, on the recommendation of the municipal or borough assembly, city council, or traditional village council of the defendant's place of residence, would benefit persons within the municipality or village who are elderly or disabled.

(c) The provisions of AS 47.12.010 — 47.12.260 and the Alaska Delinquency Rules do not apply to driver's license proceedings under AS 28.15.185; the court shall impose a driver's license revocation under AS 28.15.185 in the same manner as adult driver's license revocations, except that a parent or legal guardian shall be present at all proceedings. (§ 46 ch 59 SLA 1996; am § 2 ch 72 SLA 1997; am § 1 ch 9 SLA 1998; am § 16 ch 107 SLA 1998; am § 15 ch 65 SLA 2001)

**Effect of amendments.** — The 1997 amendment, effective September 9, 1997, added paragraph (b)(6) and made related stylistic changes.

The first 1998 amendment, effective July 7, 1998, added paragraph (a)(3) and made related stylistic changes.

The second 1998 amendment, effective July 1, 1998, rewrote the introductory language in subsection (a).

The 2001 amendment, effective July 4, 2001, added the exception in paragraph (b)(5).

**Editor's notes.** — Section 57, ch. 107, SLA 1998 provides that the 1998 amendments to subsection (a), made in § 16, ch. 107, SLA 1998, apply to offenses committed on or after July 1, 1998. Also, § 2, ch. 9, 1998 provides that paragraph (a)(3), added by § 1, ch. 9, SLA 1998, applies to offenses committed on or after July 7, 1998, but that references in (a)(3) to previous adjudications or convictions include offenses committed on, before, or after July 7, 1998.

#### NOTES TO DECISIONS

**Constitutionality.** — Subsection (a), placing the burden on defendant to prove his amenability to juvenile treatment, does not violate the equal protection and due process clauses of the Alaska Constitution. *Wilson v. State*, 967 P.2d 98 (Alaska Ct. App. 1998).

**Constitutionality of criminal penalties faced by 16- and 17-year-olds.** — Enactment of the provision changing criminal penalties faced by 16- and 17-year-olds for certain criminal acts did not violate Alaska Const., art. IV, § 15 since it did not alter the Delinquency Rules but, rather, it redefined the coverage of the delinquency law. *Nao v. State*, 953 P.2d 522 (Alaska Ct. App. 1998).

**Rehabilitation, rather than punishment, is the express purpose of juvenile jurisdiction.** Mere confinement without treatment does not contribute to the goal of rehabilitation; such confinement constitutes cruel and unusual punishment. *Rust v. State*, 582 P.2d 134 (Alaska 1978) (decided under AS 47.10.010).

**Principal precept behind children's court concept is that a person under 18 years of age does not have mature judgment and may not fully realize the**

consequences of his acts, and that therefore he should not generally have to bear the stigma of a criminal conviction for the rest of his life. *P.H. v. State*, 504 P.2d 837 (Alaska 1972) (decided under AS 47.10.010).

**The phrase "under 18 years of age" refers to the age of the accused person at the time of the alleged offense.** *P.H. v. State*, 504 P.2d 837 (Alaska 1972) (decided under AS 47.10.010).

**Jurisdiction dependent upon age of offender at time of act.** — Juvenile jurisdiction of the superior court in delinquency proceedings is dependent upon the age of the offender at the time of the delinquent acts. *Henson v. State*, 576 P.2d 1352 (Alaska 1978) (decided under AS 47.10.010).

**Child is exempt from criminal prosecution until children's court waives jurisdiction.** — From the moment a child commits an offense he is exempt from criminal prosecution until the children's court properly waives its jurisdiction. *P.H. v. State*, 504 P.2d 837 (Alaska 1972) (decided under AS 47.10.010).

**Deferring action against child until 18th birthday would frustrate purpose of juvenile courts.** — To allow officials charged with the execu-

tion of the law to punish a child merely by delaying action until the child's 18th birthday would frustrate the purpose of juvenile courts. *P.H. v. State* (decided under AS 47.10.010).

**Serious constitutional nature of the proceeding.** — The nature of the proceeding is serious and depends on the enforcement officials. *Alaska 1972* (decided under AS 47.10.010).

**When person over 18 years of age.** — With respect to penal offenses committed by a person over or under a certain age, the court shall determine whether the person has reached that particular day or not. *State v. Lir* (decided under AS 47.10.010).

**"Delinquent" status.** — A juvenile conviction but upon proof that the juvenile acts which would have an adult. *Rust v. State* (decided under AS 47.10.010).

**One who committed a crime as a juvenile.** — One who committed a crime as a juvenile when he had been previously convicted as a minor and the court had previously imposed a sentence over him until his 18th birthday. *P.2d 1352* (Alaska 1978).

**Former AS 17.12.11.** — Former AS 17.12.110(d) provides that a person who, while under 18 years of age, controls or uses any firearm or dangerous weapon, is guilty of a crime if the fine of not more than \$1,000. *AS 47.10.010(a)(1)* and *AS 47.10.010(b)* (Alaska 1978).

**State may interfere with parental custody of children in need of supervision.** — State may interfere with parental custody of children in need of supervision if the child is alleged to be in need of supervision from home and foster home. *State v. Lir*, 547 P.2d 827 (Alaska 1976) (decided under AS 47.10.010).

**Interests to be protected of children in need of supervision.** — State, 547 P.2d 827 (Alaska 1976) (decided under AS 47.10.010).

**Means chosen by the state to protect children in need of supervision.** — State, 547 P.2d 827 (Alaska 1976) (decided under AS 47.10.010).

**The purpose of the statute is to protect the child in need of supervision.** — The purpose of the statute is to protect the child in need of supervision and its predecessor noncriminal provisions. *L.A.M. v. State*, 547 P.2d 827 (Alaska 1976) (decided under AS 47.10.010).

**Burden of proving an offense against a juvenile.** — Where a child is found guilty of one of the felonies, the burden of proving that the child is ultimately found guilty of the offense is ultimately found guilty of the offense imposing on the child. *L.A.M. v. State*, 547 P.2d 827 (Alaska 1976) (decided under AS 47.10.010).

**Janet Seitz**

---

**From:** Rynnieva Moss  
**Sent:** Monday, April 11, 2005 1:25 PM  
**To:** Janet Seitz  
**Subject:** RE: HB 16

Just talked to Eddy Jeans. He said that he can absorb the cost of the report.

---

**From:** Janet Seitz  
**Sent:** Monday, April 11, 2005 12:45 PM  
**To:** Rynnieva Moss  
**Subject:** HB 16

Rynnieva:

Will the amendment impact the current fiscal note or can the report costs be asorbed within that fiscal note?  
We'll either need a new fiscal note or a statement that the fiscal note will remain the same.

*Janet Seitz*  
**House Rules Committee Staff**  
**State Capitol, Room 214**  
**Juneau, AK 99801-1182**  
**Voice: (907) 465-3764**  
**FAX: (907) 465-2040**

4/11/2005